

SEP 05 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ARAM SARGSYAN,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

Nos. 05-75713

07-70685

Agency No. A77-998-686

MEMORANDUM\*

On Petitions for Review of Orders of the  
Board of Immigration Appeals

Submitted August 26, 2008\*\*

Before: SCHROEDER, KLEINFELD, and IKUTA, Circuit Judges.

Aram Sargsyan, a native and citizen of Armenia, petitions for review of two orders of the Board of Immigration Appeals (“BIA”), each denying a motion to

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

reopen based on ineffective assistance of counsel. We have jurisdiction pursuant to 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen, *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003), and we deny the petitions for review.

The BIA did not abuse its discretion by denying the first motion to reopen for failure to comply with *Matter of Lozada*, 19 I. & N. Dec. 637 (BIA 1988), because Sargsyan did not notify his prior counsel of the allegations against him or file a complaint with the appropriate disciplinary authority. *See Iturribarria*, 321 F.3d at 900.

The BIA did not abuse its discretion by denying the second motion to reopen as time- and number-barred. *See* 8 C.F.R. § 1003.2(c)(2) (motion to reopen must be filed within 90 days of the BIA's final order and movant is limited to one such motion). Equitable tolling was not warranted because Sargsyan offered no explanation for why the new facts and evidence included with his second motion could not have been submitted with his first motion. *See Iturribarria*, 321 F.3d at 897 (equitable tolling may be warranted when movant is prevented from filing motion due to deception, fraud, or error).

**PETITIONS FOR REVIEW DENIED.**